

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

UNITED STATES,)
)
Plaintiff,)
)
v.) No.: 3:10-CR-161-TAV-DCP
)
TAMRAL GUZMAN,)
)
Defendant.)

ORDER

Defendant has filed a motion for reconsideration of this Court's order denying her compassionate release [Doc. 358]. However, she also filed a notice of appeal with respect to that order [Doc. 357], which "divests the district court of jurisdiction and transfers jurisdiction to the court of appeals." *Dickerson v. McClellan*, 37 F.3d 251, 252 (6th Cir. 1994); *see also Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) ("The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."). These two filings were made on the same day, but even if this Court were to consider the motion to reconsider as the first filed, this type of motion—which is not provided for by rule and is generally disfavored—does not affect the timeliness or operation of the notice of appeal under Federal Rule of Appellate Procedure 4(b). This is therefore not a case like *Griggs*, where the Supreme Court held that a notice of appeal, which was filed while a motion under Federal Rule of Civil Procedure 59 was still pending, was "premature" and thus "ha[d] no effect." 459 U.S. at 61. This Court

therefore lacks jurisdiction to reconsider its prior order [Doc. 356], and this motion is therefore **DENIED**.

The remaining pending motions, to appoint counsel [Do. 360], for leave to appeal in forma pauperis [Doc. 361], and for production of medical records [Doc. 363], are hereby **REFERRED** to Magistrate Judge Debra C. Poplin, for her consideration and determination or report and recommendation, as may be appropriate.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE